



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0529; FRL-10662-01-R4]

#### Air Plan Approval; Tennessee;

#### Domtar Paper Company, LLC Nitrogen Oxides SIP Call Alternative Monitoring

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to conditionally approve a source-specific State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), through a letter dated January 20, 2022, which would establish alternative monitoring, recordkeeping, and reporting requirements under the Nitrogen Oxides (NO<sub>x</sub>) SIP Call.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0529 at [www.regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www.epa.gov/dockets/commenting-epa-dockets](http://www.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Steven Scofield, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9034. Mr. Scofield can also be reached via electronic mail at [scofield.steve@epa.gov](mailto:scofield.steve@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Under Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I), also called the good neighbor provision, states are required to address the interstate transport of air pollution. Specifically, the good neighbor provision requires that each state's implementation plan contain adequate provisions to prohibit air pollutant emissions from within the state that will significantly contribute to nonattainment of the national ambient air quality standards (NAAQS), or that will interfere with maintenance of the NAAQS, in any other state.

On October 27, 1998 (63 FR 57356), EPA finalized the "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (NOx SIP Call). The NOx SIP Call required eastern states, including Tennessee, to submit SIPs limiting emissions of ozone season NOx by implementing statewide emissions budgets. The NOx SIP Call addressed the good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NOx emissions, one of the precursors of ozone.<sup>1</sup> EPA developed the NOx Budget Trading Program, an allowance trading program that states could adopt to meet their obligations under the NOx SIP Call. This trading program allowed the following sources to participate in a

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<sup>1</sup> As originally promulgated, the NOx SIP Call also addressed good neighbor obligations under the 1997 8-hour ozone NAAQS, but EPA subsequently stayed and later rescinded the rule's provisions with respect to that standard. See 65 FR 56245 (September 18, 2000); 84 FR 8422 (March 8, 2019).

regional cap and trade program: generally, electricity generating units (EGUs) with capacity greater than 25 megawatts (MW); and large industrial non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr). The NO<sub>x</sub> SIP Call also identified potential reductions from cement kilns and stationary internal combustion engines.

To comply with the NO<sub>x</sub> SIP Call requirements, in 2000 and 2001, TDEC submitted a revision to add new rule sections to the SIP-approved version of Chapter 1200-3-27, *Nitrogen Oxides*, of the Tennessee Rules. EPA approved the revision as compliant with Phase I of the NO<sub>x</sub> SIP Call in 2004. *See* 69 FR 3015 (January 22, 2004). The approved revision required EGUs and large non-EGUs in the State to participate in the NO<sub>x</sub> Budget Trading Program beginning in 2004. In 2005, Tennessee submitted, and EPA approved, a SIP revision to address additional emissions reductions required for the NO<sub>x</sub> SIP Call under Phase II. *See* 70 FR 76408 (December 27, 2005).

In 2005, EPA published the Clean Air Interstate Rule (CAIR), which required several eastern states, including Tennessee, to submit SIPs that prohibited emissions consistent with revised ozone season NO<sub>x</sub> budgets (as well as annual budgets for NO<sub>x</sub> and sulfur dioxide). *See* 70 FR 25162 (May 12, 2005); *see also* 71 FR 25328 (April 28, 2006). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter (PM<sub>2.5</sub>) NAAQS and was designed to mitigate the impact of transported NO<sub>x</sub> emissions with respect to ozone and PM<sub>2.5</sub>. CAIR established several trading programs that EPA implemented through federal implementation plans (FIPs) for EGUs greater than 25 MW in each affected state, but not large non-EGUs; states could submit SIPs to replace the FIPs that achieved the required emission reductions from EGUs and/or other types of sources.<sup>2</sup> When the CAIR trading program for ozone season NO<sub>x</sub> was implemented beginning in 2009, EPA discontinued administration of the

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<sup>2</sup> CAIR had separate trading programs for annual sulfur dioxide (SO<sub>2</sub>) emissions, seasonal NO<sub>x</sub> emissions, and annual NO<sub>x</sub> emissions.

NOx Budget Trading Program; however, the requirements of the NOx SIP Call continued to apply.

On November 25, 2009 (74 FR 61535), EPA approved revisions to Tennessee's SIP that incorporated requirements for CAIR. Consistent with CAIR's requirements, EPA approved a SIP revision in which Tennessee regulations: (1) Terminated its NOx Budget Trading Program requirements, and (2) incorporated CAIR annual and ozone season NOx state trading programs. *See* 74 FR 61535. Participation of EGUs in the CAIR ozone season NOx trading program addressed the State's obligation under the NOx SIP Call for those units, and Tennessee also chose to require non-EGUs subject to the NOx SIP Call to participate in the same CAIR trading program. In this manner, Tennessee's CAIR rules incorporated into the SIP addressed the State's obligations under the NOx SIP Call with respect to both EGUs and non-EGUs.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. *See North Carolina v. EPA*, 531 F.3d 896, *modified on rehearing*, 550 F.3d 1176 (D.C. Cir. 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued to be implemented with the NOx annual and ozone season trading programs beginning in 2009 and the SO<sub>2</sub> annual trading program beginning in 2010.

Following the D.C. Circuit's remand of CAIR, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and address good neighbor obligations for the 1997 ozone NAAQS, the 1997 PM<sub>2.5</sub> NAAQS, and the 2006 PM<sub>2.5</sub> NAAQS. *See* 76 FR 48208 (August 8, 2011). Through FIPs, CSAPR required EGUs in eastern states, including Tennessee, to meet annual and ozone season NOx emission budgets and annual SO<sub>2</sub> emission budgets implemented through new trading programs. Implementation of CSAPR began on January 1,

2015.<sup>3</sup> CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements.

Participation by a state's EGUs in the CSAPR trading program for ozone season NO<sub>x</sub> generally addressed the state's obligation under the NO<sub>x</sub> SIP Call for EGUs. CSAPR did not initially contain provisions allowing states to incorporate large non-EGUs into that trading program to meet the requirements of the NO<sub>x</sub> SIP Call for non-EGUs. EPA also stopped administering CAIR trading programs with respect to emissions occurring after December 31, 2014.<sup>4</sup>

Even though the CAIR programs have not been implemented in Tennessee since 2014, ozone season NO<sub>x</sub> emissions have remained well below the NO<sub>x</sub> SIP Call budget levels. Through a letter to EPA dated February 27, 2017,<sup>5</sup> Tennessee provided a SIP revision to incorporate a new provision – TACPR 1200-03-27-.12, “NO<sub>x</sub> SIP Call Requirements for Stationary Boilers and Combustion Turbines” (TN 2017 NO<sub>x</sub> SIP Call Rule) – into the SIP. The TN 2017 NO<sub>x</sub> SIP Call Rule established a state control program for sources that are subject to the NO<sub>x</sub> SIP Call but not covered under CSAPR or the CSAPR Update (background regarding the CSAPR Update is provided later in this notice). The TN 2017 NO<sub>x</sub> SIP Call Rule contains several subsections that together comprise a non-EGU control program under which Tennessee will allocate a specified budget of allowances to affected sources. Subsequently, on May 11, 2018, and October 11, 2018, Tennessee submitted letters requesting conditional approval<sup>6</sup> of the TN 2017 NO<sub>x</sub> SIP Call Rule and committing to provide a SIP revision to EPA by December 31, 2019, to address a deficiency by revising the definition of “affected unit” to remove the unqualified exclusion for any unit that serves a generator that produces power for sale. Based on the State's commitment to submit a SIP revision addressing the identified deficiency, EPA

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<sup>3</sup> See 79 FR 71663 (December 3, 2014).

<sup>4</sup> See 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

<sup>5</sup> EPA notes that it received the submittal on February 28, 2017.

<sup>6</sup> Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval.

conditionally approved the February 27, 2017, submission. In the same action, EPA approved removal of the State's NOx Budget Trading Program and CAIR rules from Tennessee's SIP. *See* 84 FR 7998 (March 6, 2019).

Tennessee submitted a SIP revision on December 19, 2019, which revised Tennessee Air Pollution Control Regulation (TAPCR) 1200-03-27-.12, "NOx SIP Call Requirements for Stationary Boilers and Combustion Turbines," to correct the definition of "affected unit" and to clarify requirements related to stationary boilers and combustion turbines. On March 2, 2021 (86 FR 12092), EPA published a final rule which corrected the definition of "affected unit" and clarified requirements related to stationary boilers and combustion turbines. EPA also converted the conditional approval of the TN 2017 NOx SIP Call Rule to a full approval. *See* EPA's March 2, 2021 (86 FR 12092), final rule for further detail on these changes and EPA's rationale for approving them.

After litigation that reached the Supreme Court, the D.C. Circuit generally upheld CSAPR but remanded several state budgets to EPA for reconsideration. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118, 129-30 (D.C. Cir. 2015). EPA addressed the remanded ozone season NOx budgets in the Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update), which also partially addressed eastern states' good neighbor obligations for the 2008 ozone NAAQS. *See* 81 FR 74504 (October 26, 2016). The air quality modeling for the CSAPR Update demonstrated that Tennessee contributes significantly to nonattainment and/or interferes with maintenance of the 2008 ozone NAAQS in other states. The CSAPR Update reestablished an option for most states to meet their ongoing obligations for non-EGUs under the NOx SIP Call by including the units in the CSAPR Update trading program.

The CSAPR Update trading program replaced the original CSAPR trading program for ozone season NOx for most covered states. Tennessee's EGUs participate in the CSAPR Update trading program, which generally also addresses the State's obligations under the NOx SIP Call

for EGUs. However, Tennessee elected not to include its large non-EGUs in the CSAPR Update ozone season trading program. Because Tennessee's large non-EGUs do not participate in any CSAPR or CSAPR Update trading program for ozone season NO<sub>x</sub> emissions, the NO<sub>x</sub> SIP Call regulations at 40 CFR 51.121(r)(2), as well as anti-backsliding provisions at 40 CFR 51.905(f) and 40 CFR 51.1105(e), require these non-EGUs to maintain compliance with NO<sub>x</sub> SIP Call requirements in some other way.

Under 40 CFR 51.121(f)(2) of the NO<sub>x</sub> SIP Call regulations, where a state's implementation plan contains control measures for EGUs and large non-EU boilers and combustion turbines, the SIP must contain enforceable limits on the ozone season NO<sub>x</sub> mass emissions from these sources. In addition, under 40 CFR 51.121(i)(4) of the NO<sub>x</sub> SIP Call regulations as originally promulgated, the SIP also had to require these sources to monitor emissions according to the provisions of 40 CFR part 75, which generally entails the use of continuous emission monitoring systems. Tennessee triggered these requirements by including control measures in its SIP for these types of sources, and the requirements have remained in effect despite the discontinuation of the NO<sub>x</sub> Budget Trading Program after the 2008 ozone season.

On March 8, 2019, EPA revised some of the regulations that were originally promulgated in 1998 to implement the NO<sub>x</sub> SIP Call.<sup>7</sup> The revision gave states covered by the NO<sub>x</sub> SIP Call greater flexibility concerning the form of the NO<sub>x</sub> emissions monitoring requirements that the states must include in their SIPs for certain emissions sources. The revision amended 40 CFR 51.121(i)(4) to make Part 75 monitoring, recordkeeping, and reporting optional, such that SIPs may establish alternative monitoring requirements for NO<sub>x</sub> SIP Call budget units that meet the general requirements of 40 CFR 51.121(f)(1) and (i)(1). Under the updated provision, a state's implementation plan still needs to include some form of emissions monitoring requirements for

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<sup>7</sup> See "Emissions Monitoring Provisions in State Implementation Plans Required Under the NO<sub>x</sub> SIP Call," 84 FR 8422 (March 8, 2019).

these types of sources, consistent with the NOx SIP Call's general enforceability and monitoring requirements at 40 CFR 51.121(f)(1) and (i)(1), respectively, but states are no longer required to satisfy these general NOx SIP Call requirements specifically through the adoption of 40 CFR part 75 monitoring requirements.

Following EPA's March 8, 2019, revision to the NOx SIP Call requirements, Domtar Paper Company, LLC (Domtar) petitioned TDEC to adopt revised permit conditions applicable to Domtar's Kingsport Mill in Kingsport, Tennessee, with an alternative monitoring option for this large non-EGU, along with corresponding revised recordkeeping and reporting conditions. This petition resulted in the issuance of the permit for Domtar included as part of TDEC's SIP submittal. The changes allow Domtar to address the NOx SIP Call's requirements for enforceable limits on ozone season NOx mass emissions through non-Part 75 alternative monitoring and reporting methodologies and specifically through the use of continuous emission monitoring under 40 CFR part 60, Appendix B in combination with monitoring of heat input. The January 20, 2022, source-specific SIP revision submitted by TDEC contains the permit provisions that TDEC modified to specifically address the alternative monitoring provisions allowed under the NOx SIP Call and requests conditional approval of those provisions into the SIP. The contents of the submittal and EPA's analysis is further discussed in Section III.

## **II. Why is EPA Proposing This Action?**

TDEC's January 20, 2022, letter requests that EPA conditionally approve into Tennessee's SIP Tennessee Air Pollution Control Board operating permit No. 079291 for Domtar, state effective on January 12, 2022, to provide alternative NOx monitoring and reporting for the No. 2 Power Boiler at this facility in accordance with 40 CFR 51.121(i). TDEC requests that this approval be conditioned on Tennessee's commitment to modify the provisions at Chapter 1200-03-27.12(11) to specify allowable non-Part 75 permissible alternative monitoring and reporting methodologies for large industrial non-EGUs subject to the NOx SIP Call, such as the alternative monitoring and reporting provisions in permit No. 079291. The



submission also includes a demonstration under CAA section 110(l) intended to show that the revision would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. As discussed later, EPA has reviewed these changes, preliminarily finds them consistent with the CAA and regulations governing the NOx SIP Call, and is proposing to conditionally approve the revisions to incorporate the source-specific SIP revision into the State's implementation plan.

### **III. Analysis of Tennessee's Submission**

On August 13, 2021, Domtar submitted a petition to TDEC requesting approval of alternative monitoring, recordkeeping, and reporting requirements for the boiler subject to the NOx SIP Call (No. 2 Power Boiler) at Domtar's Kingsport Mill. The petition states that Condition S2-4.F of PSD construction permit 978656 requires Domtar to monitor NOx emissions from the No. 2 Power Boiler in accordance with 40 CFR part 60. The petition also states that Domtar's Bubbling Fluidized Bed Biomass Boiler 4 is required to monitor NOx emissions in accordance with Part 60, and Domtar wishes to use the same monitoring method for both boilers.

That petition resulted in TDEC's issuance of operating permit No. 079291 to Domtar, state effective on January 12, 2022, to address NOx SIP Call requirements and to adopt an alternative monitoring option (along with corresponding recordkeeping and reporting requirements) for this large non-EGU. This permit has been submitted by TDEC for approval into Tennessee's SIP. The permit conditions within this permit are consistent with the flexibility provided to states on March 8, 2019 (84 FR 8422) concerning the form of the NOx emissions monitoring requirements that the states must include in their SIPs for certain emissions sources, such as Domtar, to comply with the NOx SIP Call, required at 40 CFR 51.121(i)(4).

Specifically, permit Condition 1 permits compliance with Tennessee's rules implementing the NOx SIP Call by demonstrating compliance with permit Conditions 2 through 5. Condition 2 provides that Domtar may demonstrate compliance with Tennessee Rule 1200-

03-27-.12 by monitoring NOx emissions from the No. 2 Power Boiler using the monitoring methodologies for NOx emission rate set forth in 40 CFR part 60, Appendix B, in combination with monitoring of heat input.

Condition 3 requires that Domtar submit a program for conducting continuous in-stack monitoring for NOx mass emissions for approval by TDEC in accordance with the requirements of 40 CFR part 60, Appendix B. To be approvable by TDEC, the program shall address the following:

- (a) A description of the overall monitoring program;
- (b) Specifications demonstrating that the proposed monitoring instruments will meet the requirements of 40 CFR part 60, Appendix B;
- (c) Specifications for the proposed fuel flow meter and a discussion of how the fuel Btu content will be determined;
- (d) Proposed location(s) of the monitoring instruments on the boiler effluent gas stream;
- (e) Proposed procedures for conducting performance specification testing of the monitoring instruments in units of the applicable standard (i.e. NOx mass emissions);
- (f) Proposed ongoing monitoring instrument quality assurance procedures (40 CFR part 60, Appendix F or approved alternative);
- (g) Procedures for addressing missing data (40 CFR part 75, Appendix C, Appendix F or approved alternative); and
- (h) Proposed format for the reporting of data.

Condition 4 requires Domtar to calculate NOx mass emissions (in tons) for each control period and report the total to TDEC no later than December 31 following the end of the control period. Further, Condition 4 requires that NOx emission rates shall be calculated from continuous emissions monitoring system (CEMS) measurements using Method 19 in Appendix A-7 to 40 CFR part 60.

Condition 5 requires Domtar to maintain records of all measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this part recorded in a permanent form suitable for inspection. These records shall be retained for at least five years following the end of the control period in which such measurements, maintenance, reports, and records were collected.

Section 110(l) of the CAA prohibits revision of a SIP that would interfere with attainment or maintenance of a NAAQS, reasonable further progress toward attainment of a NAAQS, or any other applicable requirement of the CAA. In its submittal, TDEC includes a demonstration in accordance with section 110(l) of the CAA that the proposed revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Tennessee's demonstration explains that the proposed changes are compliant with section 110(l) of the CAA because: (1) As a newly constructed affected unit, TDEC calculated pursuant to SIP-approved Rule TAPCR 1200-03-27-.12(6) that the NO<sub>x</sub> allowance allocation for the No. 2 Power Boiler would be 160 tons per control period based on PSD construction permit 978656, Condition S2-1.F., which would be 2.8% of Tennessee's NO<sub>x</sub> budget of 5,666 tons; (2) revising the monitoring method will not increase NO<sub>x</sub> emissions; (3) Tennessee's review of all non-EGUs subject to the NO<sub>x</sub> SIP Call demonstrates that NO<sub>x</sub> emissions for the collection of affected facilities are operating well below the state's NO<sub>x</sub> budget; (4) the alternative monitoring requirements would be permanent, enforceable, and sufficient to determine whether the source is in compliance with the NO<sub>x</sub> SIP Call emissions requirements; and (5) the work practice requirements of 40 CFR part 63 Subpart DDDDD (periodic tune-ups) will provide additional assurance that the boiler is operating properly. EPA preliminarily agrees with Tennessee's rationale summarized above and the conclusion that the proposed revision would not interfere with any applicable requirement

concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

In order to address the requirements of the NO<sub>x</sub> SIP Call for sources that are not covered under a CSAPR trading program for ozone season NO<sub>x</sub> emissions, SIP revisions must provide for enforceable emissions limitations and require emissions monitoring consistent with the NO<sub>x</sub> SIP Call's general enforceability and monitoring requirements.<sup>8</sup> EPA is proposing to find that TDEC's submittal meets these requirements and all other requirements of the CAA, including 40 CFR 51.121(i)(1) and (4), except that Tennessee additionally will need to modify TAPCR 1200-03-27.12(11) to specify permissible non-Part 75 alternative monitoring and reporting methodologies within one year of the effective date of EPA's conditional approval. Thus, EPA is proposing to conditionally approve TDEC operating permit No. 079291, state effective on January 12, 2022, into Tennessee's SIP pursuant to CAA section 110(k)(4), subject to TDEC's specific commitment to modify the provisions of TAPCR 1200-03-27.12(11) to specify permissible non-Part 75 alternative monitoring and reporting methodologies within one year of EPA's conditional approval, as described in TDEC's submittal.

If Tennessee meets its commitment to submit a SIP revision modifying the provisions of TAPCR 1200-03-27.12(11) to specify permissible non-Part 75 alternative monitoring and reporting methodologies, as allowed under 40 CFR 51.121(i)(1) and (4), by 12 months from the date of final approval of this proposed action, TDEC operating permit No. 079291 will remain a part of the SIP. However, if the State fails to submit this revision on or before 12 months from the date of final approval of this action, the conditional approval will become a disapproval pursuant to CAA section 110(k)(4).

#### **IV. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as

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<sup>8</sup> See 40 CFR 51.121(f)(2)(ii) and 51.121(i)(4).

discussed in Sections I through III of this preamble, EPA is proposing to incorporate by reference Tennessee Air Pollution Control Board's operating permit No. 079291 for the Domtar Kingsport Mill, state effective on January 12, 2022. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

## **V. Proposed Action**

EPA is proposing to conditionally approve Tennessee Air Pollution Control Board operating permit No. 079291 for the Domtar Kingsport Mill, state effective January 12, 2022, for incorporation into the Tennessee SIP. These changes were submitted by Tennessee on January 20, 2022.

## **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This proposed action merely proposes to conditionally approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 28, 2023.

**Daniel Blackman,**  
*Regional Administrator,*  
*Region 4.*

[FR Doc. 2023-04430 Filed: 3/2/2023 8:45 am; Publication Date: 3/3/2023]